

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Blue Valley Telecommunications, Inc	)	CC Docket No. 96-45
	)	
and	)	
	)	
United Telephone Company of Kansas	)	
	)	
Petition for Waiver of the Definition of	)	
“Study Area” Contained in Part 36,	)	
of the Commission’s Rules	)	

**COMMENTS  
OF THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (“NTCA”)<sup>1</sup> submits these comments in response to the Blue Valley Telecommunications, Inc. (“Blue Valley”) and United Telephone Company of Kansas (“United”) (together, “Petitioners”)<sup>2</sup> petition for expedited waiver of the definition of “study area” contained in the Appendix-Glossary of Part 36 of the Commission’s Rules. NTCA supports Petitioners’ request for Waiver of the Study Area Definition and Blue Valley’s request

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<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> Blue Valley Telecommunications, Inc. and United Telephone Company of Kansas are NTCA members.

for waiver of Section 69.3(e)(11) of the Commission's rules concerning participation in the National Exchange Carrier Association ("NECA") carrier common line tariff.

In October 2004, the Commission granted consent to transfer control of exchanges acquired by Blue Valley from United. Petitioners now seek to incorporate the acquired exchanges into Blue Valley's study area.

In determining whether or not a waiver of the rules freezing study area boundaries is warranted, the Commission must apply the following three part test: (1) whether the proposed change will adversely affect the Universal Service Support Program; (2) whether the state commission(s) having regulatory authority does not object to the change; and (3) whether the public interest will be served. The petition satisfies all three prongs of the waiver test.

1 - Petitioners have demonstrated that grant of the waiver will have no notable adverse affect on the Universal Service Fund. The Commission previously concluded that study area changes would not be considered to have an adverse affect on the Universal Service Fund if grant of the waiver would not result in an annual aggregate shift in high cost support of an amount equal to or greater than one percent of the total high cost fund for the pertinent funding year. Despite potential "safety valve" support and interstate common line support, the total additional support Blue Valley would receive would not rise to \$39 million - the approximate amount that would equal a one percent increase of annual high cost support.

2 - The State Corporation Commission of the State of Kansas has already approved the proposal. The transaction was granted in December 2004, satisfying the second prong of the Commission's test.

3 - The public interest is served by grant of the instant petition. Previous United customers will now be served by Blue Valley, a locally based carrier serving the needs of the rural communities it serves. Blue Valley customers enjoy local management, local service personnel and local service centers.

Blue Valley intends to improve the existing network, installing all new outside plant with Fiber-to-the-Home and packet switching capability. Customers will have access to a complete offering of basic and advanced services including high speed Internet access and video services. The affected customers will benefit if the affected exchanges are placed in Blue Valley's study area, serving the overall public interest.

Blue Valley also requests waiver of Section 69.3(e)(11) to continue to use NECA as its tariff pool administrator. Section 69.3(e)(11) requires that any changes in NECA common line tariff participation resulting from a merger or acquisition of telephone properties are to be made effective on the next annual access tariff filing effective date following the merger or acquisition. Section 69.3(e)(11) may thus preclude Blue Valley from participating in the NECA common line tariff until the next annual access tariff filing effective date following the consummation of the acquisition transaction. Blue Valley would have to assume the cost and administrative burden associated with filing interstate tariffs for that period.

Blue Valley is a very small carrier. Inclusion of the small number of acquired access lines in the NECA tariffs would result in a minimal increase in NECA common line pool participation. But forcing Blue Valley to file its own tariffs would result in substantial cost and unduly complicate the process. A waiver of 69.3(e)(11) is warranted in this instance.

## CONCLUSION

The Commission routinely grants waiver requests for carriers similarly situated to United and Blue Valley. Petitioners have demonstrated that good cause exists and the public will benefit by grant of the instant petition. The Commission should grant the requested waivers.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS  
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## CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in CC Docket No. 96-45, DA 05-429 was served on this 2nd day of March 2005 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy

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